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10 CITY OF OAKLAND
11 25815/517315

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

11 BEVERLY ALDABASHI, SALEH
12 ALDABASHI, in his own right and as
13 guardian ad litem on behalf of his minor
14 son, SALEH "JULIAN" ALDABASHI,

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Plaintiffs,

v.

16 DOES 1 through 20, inclusive, and the
17 CITY OF OAKLAND,

Defendant,

Case No. C 08-00217 JSW

**DEFENDANT'S FURTHER CASE
MANAGEMENT CONFERENCE
STATEMENT**

Date: August 29, 2008

Time: 1:30 p.m.

Ctrm: 2

Hon. Jeffery S. White

INTRODUCTION

22 Plaintiffs are Pro Per. They have not responded to the City of Oakland's written
23 and telephonic efforts to meet and confer regarding the filing of a joint further case
24 management conference statement. The City, therefore, submits this separate further
25 case conference management statement.

1 The City incorporates herein by this reference the original joint case management
2 conference statement filed on April 18, 2008 and attached hereto as Exhibit A.

3 **CURRENT STATUS**

4 At the initial case management conference on April 25, 2008, the court assigned
5 April 13, 2009 as the date for a bench trial. The court also ordered an early settlement
6 conference with a magistrate judge to take place before July 24, 2008 and directed the
7 parties to complete discovery necessary to allow meaningful participation in the
8 conference.
9

10 As Beverly Aldabashi is the only plaintiff who witnessed the subject incident, the
11 City endeavored to complete her deposition prior to the settlement conference. After she
12 failed to appear for her noticed deposition on two occasions, this court issued an order
13 compelling her appearance at the Oakland City Attorney's Office on July 22, 2008. This
14 court also directed Ms. Aldabashi to bring documents to the deposition pertaining to her
15 claim, as requested in the deposition notice, and to pay the City of Oakland costs of
16 \$271.25. Ms. Aldabashi appeared for her deposition but failed to bring any documents
17 with her nor did she pay the City \$271.25, as ordered. The deposition was not concluded
18 on July 22nd in order to allow Ms. Aldabashi additional time to gather documents she
19 stated were in the possession of her prior attorney. The costs remain unpaid. Ms.
20 Aldabashi's deposition is scheduled to be completed on August 26, 2008. Neither Saleh
21 nor Julian Aldabashi has appeared for or otherwise participated in the deposition, to date.
22

23 Meanwhile, on July 23rd, the City of Oakland and Beverly Aldabashi
24 participated in a settlement conference before Chief Magistrate Judge James Larson.
25
26

1 Neither Saleh nor Julian Aldabashi appeared at the settlement conference nor did they
2 submit statements beforehand. The case did not settle.
3

4 Respectfully submitted,
5

6
7 Dated: August 22, 2008

8 JOHN A. RUSSO, City Attorney
9 RANDOLPH W. HALL, Assistant City Attorney
10 WILLIAM E. SIMMONS, Supervising Trial Attorney
11 STEPHEN Q. ROWELL, Deputy City Attorney

12 By: 
13 Attorneys for Defendant
14 CITY OF OAKLAND
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EXHIBIT A

1 OMAR KRASHNA - SB #214567
2 KRASHNA LAW FIRM
3 1440 Broadway, Suite 308
4 Oakland, California, 94612
5 Telephone: (510) 836-2999 Fax: (510) 836-2900
6 okrashna@yahoo.com
7 Attorney for Plaintiff Beverly Aldabashi

8 SALEH ALDABASHI
9 5037 Sawyer Lake Drive
10 Arlington, TN 38002
11 Telephone: (510) 823-8326
12 aldabasih@earthlink.net
13 Plaintiff, Pro Per, individually and as guardian ad litem on behalf of
14 SALEH "JULIAN" ALDABASHI

15 JOHN A. RUSSO, City Attorney - SB #129729
16 RANDOLPH W. HALL, Asst. City Atty. - SB #080142
17 WILLIAM E. SIMMONS, Supervising Trial Atty.- SB #121286
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23 Attorneys for Defendant
24 CITY OF OAKLAND
25 25815/445580

18 UNITED STATES DISTRICT COURT

19 NORTHERN DISTRICT OF CALIFORNIA

20 BEVERLY ALDABASHI, SALEH
21 ALDABASHI, in his own right and as
22 guardian ad litem on behalf of his minor
23 son, SALEH "JULIAN" ALDABASHI,

24 Plaintiffs,

25 v.

26 DOES 1 through 20, inclusive, and the
CITY OF OAKLAND, CALIFORNIA,

Case No. C 08-00217 JSW

**JOINT CASE MANAGEMENT
CONFERENCE STATEMENT AND
[Proposed] CASE MANAGEMENT
ORDER**

Date: April 25, 2008

Time: 1:30 p.m.

Ctrm: 2

1 Defendants.

Hon. Jeffery S. White

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5 Pursuant to Civil Local Rule 16-9, the parties to the above-entitled action jointly
6 submit this Case Management Statement and Proposed Order, and request the Court to
7 adopt it as its Case Management Order in this case.
8

9 **1. Jurisdiction and Service**

10
11 This action has been brought under 42 U.S.C. § 1983. Jurisdiction is based on 28
12 U.S.C. § 1331 and §1343. The court has supplemental jurisdiction over state law claims
13 under 28 U.S.C. § 1367. All named parties have been served with the summons and
14 complaint.
15

16 **2. Facts**

17
18 On October 4, 2006, Oakland police officer Bradley Baker shot and killed a
19 German Shepard dog which belonged to the plaintiffs. The incident occurred when
20 Officer Baker was responding to a domestic disturbance call at a single family residence
21 in Oakland. He encountered the dog and plaintiff Beverly Aldabashi as he approached
22 the front of the house. Neither plaintiff Saleh Aldabashi, nor plaintiff Julian Aldabashi,
23 was present at any time during the incident. According to Officer Baker, Ms. Aldabashi
24 let go of the dog's leash and the dog was about to attack him when he shot it. The
25 plaintiffs deny this and contend that the officer shot the dog without provocation.
26

1 Plaintiff Beverly Aldabashi claims to been struck by bullet fragments when the officer shot
2 at the dog.

3
4 **The principal factual issues that the parties dispute are:**

- 5 a. Whether the officer reasonably believed that the dog posed a threat of
6 serious bodily injury;
- 7 b. Whether the dog had been trained as a "attack dog";
- 8 c. Whether the dog had shown a propensity to bite humans before the
9 incident;
- 10 d. Whether the plaintiffs knew or should have known that the dog had a
11 propensity to bite humans before the incident;
- 12 e. Whether the officers' actions caused or contributed to marital
13 difficulties between plaintiffs Beverly Aldabashi and Saleh Aldabashi;
- 14 f. Whether plaintiff Beverly Aldabashi held the dog's leash when the
15 officer fired his gun;
- 16 g. Whether plaintiff Beverly Aldabashi suffered physical injuries during
17 the incident;
- 18 h. The nature and extent of physical or emotional injuries suffered by
19 plaintiffs as a result of the incident;
- 20 i. The nature and extent of plaintiffs' out of pocket damage;
- 21 j. Whether officers who investigated the incident threatened plaintiff
22 Aldabashi;
- 23 k. Whether officers conspired against the plaintiffs.

24 **3. The principal legal issues that the parties' dispute are:**

- 25 a. Whether the actions of the City or the officers constituted a violation
26 of plaintiffs' constitutional rights;

- 1 b. Whether any officer engaged in tortuous conduct during the incident;
- 2
- 3 c. Whether the defense of qualified immunity applies;
- 4
- 5 d. Plaintiff's entitlement to emotional distress damages.
- 6
- 7

8 **4. Motions**

9 Defendants anticipate moving for summary judgment on plaintiffs Fourth
10 Amendment Claims and common law tort theories alleged against the City.

11 **5. Amendment of Pleadings**

12 None anticipated.

13

14 **6. Evidence Preservation**

15 Plaintiff Beverly Aldabashi's investigation of the incident contains pertinent
16 evidence of the incident including interview statements, photographs, medical records,
17 and service certification of the dog that was killed. Copies of these materials have been
18 acquired and maintained by Plaintiff Beverly Aldabashi.

19

20 The City of Oakland investigation of the incident contains the most pertinent
21 evidence of the incident including interview statements and photographs. Copies of these
22 materials have been retrieved and are maintained at the Oakland City Attorney's office.

23

24 **7. Disclosures**

25 Copies of Plaintiff Beverly Aldabashi's Initial Disclosures made pursuant to Federal
26 Rule 26 are attached hereto and incorporated herein as Exhibit A.

1
2 Copies of Defendant's Initial Disclosures made pursuant to Federal Rule 26 are
3 attached hereto and incorporated herein as Exhibit B.

4
5 **8. Discovery**

6 No formal discovery has taken place to date. The parties agree that the discovery
7 limitations in the Federal Rules of Civil Procedure will apply absent a stipulation or order to
8 the contrary.

9
10 **9. Class Action**

11 N/A

12
13 **10. Related Cases**

14 N/A

15
16 **11. Relief**

17 Plaintiff Beverly Aldabashi, who was personally injured in the subject incident and
18 lost her certified service dog seeks general and special compensatory damages (including
19 direct, indirect, and emotional damages) presumed damages, and nominal damages of at
20 least \$500,000.00. She seeks punitive (exemplary) damages against defendants, in an
21 amount to be determined by the trier of facts. She also seeks an award for three times the
22 actual damages awarded, and for a civil penalty of \$25,000.00 for each violation which
23 occurred, pursuant to Cal. Civil Code §§ 52.1 and 52(a), (b). Finally, pursuant to 42 U.S.C.
24 § 1988(b), CCP §1021.5, and Civil Code § 52(b)(3), Plaintiff Beverly Aldabashi seeks
25 reasonable attorney's fees and costs and expenses of litigation.
26

1 ///

2

3 **12. Settlement and ADR**

4 Defendant is amenable to a settlement conference before a magistrate judge.

5

6 **13. Consent to Magistrate Judge For All Purposes**

7

8 The parties do not consent to assignment of this case to a United States District
9 Magistrate Judge.

10

11 **14. Other References**

12

13 This case is not suitable for reference to binding arbitration, a special master or the
14 Judicial Panel on Multidistrict Litigation.

15

16 **15. Narrowing of Issues**

17

18 Defendants intend to move for summary judgment on the qualified immunity and
19 conspiracy tort issues in the case.

20

21 **16. Expedited Schedule:**

22

23 None requested.

24

25 **17. Scheduling:**

26

The parties propose:

A.

Fact Discovery Cut-Off: January, 16, 2009

B.

Expert disclosures: January 16, 2009

C.

Expert discovery: February 13, 2009

D.

Hearing of Dispositive Motions: February 13, 2009

E.

Pretrial Conference: March 30, 2009

18. Trial Date:

The parties propose: April 13, 2009

Time estimate: 8 days

1
2
3 **19. Disclosure of Non-Party Interested Entities or Persons**

4 As per Civil Local Rule 3-16, plaintiff Beverley Aldabashi and defendants are not
5 aware of any persons, firms, partnerships, corporations or other entities which has either
6 (i) a financial interest in the subject matter in controversy or in a part to the proceeding; or
7 (ii) and any other kind of interest that could be substantially affected by the outcome of the
8 proceeding.

9 **SIGNATURE AND CERTIFICATION BY PARTIES AND LEAD TRIAL COUNSEL**

10 Pursuant to Civil L.R. 16-12, each of the undersigned certifies that he or she has
11 read the brochure entitled "Dispute Resolution Procedures in the Northern District of
12 California," discussed the available dispute resolution options provided by the court and
13 private entities and has considered whether their case might benefit from any of the
14 available dispute resolution options.
15

16 Respectfully submitted,

17
18 Dated: April 17 , 2008

/s/

19 _____
20 Omar Krashna
21 KRASHNA LAW FIRM
22 Attorneys for Plaintiff
23 BEVERLY ALDABASHI

24 Dated: April 18, 2008

/s/

25 _____
26 SALEH ALDABSHI, individually and as guardian ad litem
for JULIAN ALDABSHI

1
2 Dated: April 18, 2008

JOHN A. RUSSO, City Attorney
RANDOLPH W. HALL, Assistant City Attorney
WILLIAM E. SIMMONS, Supervising Trial Attorney
STEPHEN Q. ROWELL, Deputy City Attorney

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6 By: 
7 Attorneys for Defendant
8 CITY OF OAKLAND

9 **CASE MANAGEMENT ORDER**

10 The Case Management Statement and Proposed Order is hereby adopted
11 by the Court as the Case Management Order for the case and the parties are ordered to
12 comply with this Order. In addition, the Court orders:
13
14
15
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17

18 Dated: _____

JEFFREY S. WHITE
UNITED STATES DISTRICT JUDGE